

Executive Summary – Enforcement Matter – Case No. 65798

City of Gustine

RN102178654

Docket No. 2024-0585-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Gustine WWTF, located on County Road 260, east of Main Street, approximately 2.4 miles east of the intersection of State Highway 36 and Farm-to-Market Road 1476, Gustine, Comanche County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: December 6, 2024

Comments Received: No

Penalty Information

Total Penalty Assessed: \$15,750

Amount Deferred for Expedited Settlement: \$3,150

Total Paid to General Revenue: \$12,600

Total Due to General Revenue: \$0

Payment Plan: N/A

Compliance History Classifications:

Person/CN - Satisfactory

Site/RN - Satisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: January 2021

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: January 24, 2024

Date(s) of NOE(s): March 25, 2024

Executive Summary – Enforcement Matter – Case No. 65798

City of Gustine

RN102178654

Docket No. 2024-0585-MWD-E

Violation Information

Failed to comply with permitted effluent limitations for total suspended solids and total ammonia nitrogen [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010841001, Effluent Limitations and Monitoring Requirements No. 1].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to, within 130 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010841001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance.

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Sarah Castillo, Enforcement Division, Enforcement Team 1, MC 219, (512) 239-1130; Michael Parrish, Enforcement Division, MC 219, (512) 239-2548

Respondent: The Honorable Ken Huey, Mayor, City of Gustine, P.O. Box 145, Gustine, Texas, 76455

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 5 (January 28, 2021)

PCW Revision February 11, 2021

DATES	Assigned	1-Apr-2024	Screening	2-Apr-2024	EPA Due	
	PCW	30-Apr-2024				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Gustine
Reg. Ent. Ref. No.	RN102178654
Facility/Site Region	3-Abilene
Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	65798	No. of Violations	1
Docket No.	2024-0585-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Sarah Castillo
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$11,250
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	40.0%	Adjustment	Subtotals 2, 3, & 7	\$4,500
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Notes: Enhancement for four months of self-reported effluent violations and one agreed order with a denial of liability.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$2,839
Estimated Cost of Compliance	\$25,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$15,750
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$15,750
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$15,750
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DEFERRAL	20.0%	Reduction	Adjustment	-\$3,150
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Reduces the Final Assessed Penalty by the indicated percentage.

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$12,600
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Screening Date	2-Apr-2024	Docket No.	2024-0585-MWD-E	PCW
Respondent	City of Gustine			Policy Revision 5 (January 28, 2021)
Case ID No.	65798			PCW Revision February 11, 2021
Reg. Ent. Reference No.	RN102178654			
Media	Water Quality			
Enf. Coordinator	Sarah Castillo			

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Number	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	4	20%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 40%

>> Repeat Violator (Subtotal 3)

No	Adjustment Percentage (Subtotal 3) 0%
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>> Compliance History Person Classification (Subtotal 7)

Satisfactory Performer	Adjustment Percentage (Subtotal 7) 0%
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>> Compliance History Summary

Compliance History Notes

Enhancement for four months of self-reported effluent violations and one agreed order with a denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 40%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 40%

Screening Date	2-Apr-2024	Docket No.	2024-0585-MWD-E	PCW		
Respondent	City of Gustine	<i>Policy Revision 5 (January 28, 2021)</i>				
Case ID No.	65798	<i>PCW Revision February 11, 2021</i>				
Reg. Ent. Reference No.	RN102178654					
Media	Water Quality					
Enf. Coordinator	Sarah Castillo					
Violation Number	1					
Rule Cite(s)	30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a)(1), and Texas Pollutant Discharge Elimination System Permit ("TPDES") No. WQ0010841001, Effluent Limitations and Monitoring Requirements No. 1					
Violation Description	Failed to comply with permitted effluent limitations, as shown in the attached effluent violation table.					
		Base Penalty	\$25,000			
>> Environmental, Property and Human Health Matrix						
OR		Release	Harm			
		Major	Moderate	Minor		
	Actual			x		
	Potential					
		Percent	15.0%			
>> Programmatic Matrix						
		Falsification	Major	Moderate	Minor	
		Percent	0.0%			
Matrix Notes	A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded protective levels. Total suspended solids were also considered. Human health or the environment has been exposed to insignificant amounts of pollutants that do not exceed levels that are protective of human health or environmental receptors as a result of the violation.					
		Adjustment	\$21,250			
					\$3,750	
>> Violation Events						
Number of Violation Events		3	121	Number of violation days		
	daily					
	weekly					
	monthly					
	quarterly	x				
	semiannual					
	annual					
	single event					
		Violation Base Penalty \$11,250				
		Three quarterly events are recommended for the quarters containing the months February, July, August, and October 2023.				
Good Faith Efforts to Comply		0.0%	Reduction		\$0	
		Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer			
	Extraordinary					
	Ordinary					
	N/A	x				
	Notes	The Respondent does not meet the good faith criteria for this violation.				
		Violation Subtotal	\$11,250			
>> Economic Benefit (EB) for this violation						
>> Statutory Limit Test						
Estimated EB Amount		\$2,839	Violation Final Penalty Total		\$15,750	
		This violation Final Assessed Penalty (adjusted for limits)		\$15,750		

Economic Benefit Worksheet

Respondent City of Gustine
Case ID No. 65798
Reg. Ent. Reference No. RN102178654
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Costs Saved	EB Amount
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Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$25,000	28-Feb-2023	6-Jun-2025	2.27	\$2,839	n/a	\$2,839

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance, make the necessary repairs/adjustments to the Facility, and achieve compliance with the permitted effluent limitations. The Date Required is the end date of the first month of noncompliance, and the Final Date is estimated date of compliance.

Avoided Costs

ANNUALIZE avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance				0.00	\$0	\$0	\$0
ONE-TIME avoided costs				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$25,000

TOTAL

\$2,839

City of Gustine Docket No. 2024-0585-MWD-E TPDES Permit No. WQ0010841001 Case No. 65798				
	Total Suspended Solids Daily Average Concentration	Total Ammonia Nitrogen Daily Average Concentration	Total Ammonia Nitrogen Single Grab Concentration	Total Ammonia Nitrogen Daily Average Loading
Monitoring Period	Limit = 15 mg/L	Limit = 3 mg/L	Limit = 15 mg/L	Limit = 2.1 lbs/day
February 2023	19.75	c	c	c
July 2023	c	10.4	17.6	3.19
August 2023	c	3.44	c	c
October 2023	c	5.79	c	c

mg/L = milligrams per liter lbs/day = pounds per day c = compliant



Compliance History Report

Compliance History Report for CN600640189, RN102178654, Rating Year 2024 which includes Compliance History (CH) components from September 1, 2019, through August 31, 2024.

Customer, Respondent, or Owner/Operator: CN600640189, City of Gustine

Classification: SATISFACTORY

Rating: 2.73

Regulated Entity: RN102178654, CITY OF GUSTINE
WWTP

Classification: SATISFACTORY

Rating: 2.73

Complexity Points: 4

Repeat Violator: NO

CH Group: 08 - Sewage Treatment Facilities

Location: on County Road 260, east of Main Street, approximately 2.4 miles east of the intersection of State Highway 36 and Farm-to-Market Road 1476, Comanche County, Texas

TCEQ Region: REGION 03 - ABILENE

ID Number(s):

WASTEWATER PERMIT WQ0010841001

WASTEWATER EPA ID TX0117722

Compliance History Period: September 01, 2019, to August 31, 2024

Rating Year: 2024

Rating Date: 09/01/2024

Date Compliance History Report Prepared: September 20, 2024

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: September 20, 2019, to September 20, 2024

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Sarah Castillo

Phone: (512) 239-1130

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five-year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 04/07/2020 ADMINORDER 2019-0625-MWD-E (1660 Order-Agreed Order With Denial)
- Classification: Moderate
- Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)
- Rqmt Prov: Effluent Limits PERMIT
- Description: Failed to comply with permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE §305.125(1), TEX. WATER CODE §26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010841001, Effluent Limitations and Monitoring Requirements No. 1.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	October 23, 2019	(1614959)	Item 4	January 21, 2020	(1635725)
Item 2	November 15, 2019	(1620746)	Item 5	February 14, 2020	(1642340)
Item 3	December 18, 2019	(1628095)	Item 6	March 18, 2020	(1648850)

J. Early compliance:
N/A

Sites Outside of Texas:
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF GUSTINE
RN102178654

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2024-0585-MWD-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Gustine (the "Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located at on County Road 260, east of Main Street, approximately 2.4 miles east of the intersection of State Highway 36 and Farm-to-Market Road 1476 in the City of Gustine, Comanche County, Texas (the "Facility"). The Facility is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
2. The Executive Director and the Respondent agree that the TCEQ has jurisdiction to enter this Order pursuant to TEX. WATER CODE §§ 7.002, 7.051, and 7.073, and that the Respondent is subject to TCEQ's jurisdiction. The TCEQ has jurisdiction in this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and the rules of the TCEQ.
3. The occurrence of any violation is in dispute and the entry of this Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
4. An administrative penalty in the amount of \$15,750 is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid \$12,600 of the penalty and \$3,150 is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order. The deferred amount shall be waived only upon full compliance with all the terms and conditions contained in this Order. If the Respondent fails to timely and satisfactorily comply with any of the terms or requirements contained in this Order, the Executive Director may demand payment of all or part of the deferred penalty amount.
5. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a). Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

6. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Order.
7. This Order represents the complete and fully integrated agreement of the parties. The provisions of this Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Order unenforceable, the remaining provisions shall be valid and enforceable.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

II. ALLEGATIONS

During a record review for the Facility conducted on January 24, 2024, an investigator documented that the Respondent failed to comply with permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010841001, Effluent Limitations and Monitoring Requirements No. 1, as shown in the effluent violation table below.

Effluent Violation Table				
	Total Suspended Solids Daily Average Concentration	Total Ammonia Nitrogen Daily Average Concentration	Total Ammonia Nitrogen Single Grab Concentration	Total Ammonia Nitrogen Daily Average Loading
Monitoring Period	Limit = 15 mg/L	Limit = 3 mg/L	Limit = 15 mg/L	Limit = 2.1 lbs/day
February 2023	19.75	c	c	c
July 2023	c	10.4	17.6	3.19
August 2023	c	3.44	c	c
October 2023	c	5.79	c	c

mg/L = milligrams per liter lbs/day = pounds per day c = compliant

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed a penalty as set forth in Section I, Paragraph No. 4. The payment of this penalty and the Respondent's compliance with all of the requirements set forth in this Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Gustine, Docket No. 2024-0585-MWD-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall, within 130 days after the effective date of this Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010841001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be signed by the Respondent and shall include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Abilene Regional Office
Texas Commission on Environmental Quality
1977 Industrial Boulevard
Abilene, Texas 79602-7833

3. All relief not expressly granted in this Order is denied.
4. The duties and provisions imposed by this Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination

of what constitutes good cause rests solely with the Executive Director. Extension requests shall be sent to the Enforcement Division at the address listed above.

6. This Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms: electronic transmission, owner, person, writing, and written, shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date



For the Executive Director

12/12/2024

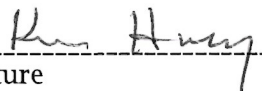
Date

I, the undersigned, have read and understand the attached Order. I am authorized to agree to the attached Order, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

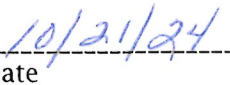
I also understand that failure to comply with the Ordering Provisions, if any, in this Order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the OAG for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the OAG of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

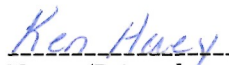
In addition, any falsification of any compliance documents may result in criminal prosecution.



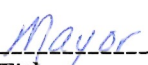
Signature



Date



Name (Printed or typed)
Authorized Representative of
City of Gustine



Title

☐ If mailing address has changed, please check this box and provide the new address below:

Instructions: Send the original, signed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Ordering Provision 1 of this Order.